

Item #: _____
Moved by: _____
Seconded by: _____

Prepared By: Marcy Ingram
Reviewed By: Marcy Ingram

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE SHELBY COUNTY CHARTER TO REQUIRE THE HIRING APPOINTMENT AND DISMISSAL PROCESS FOR THE COUNTY ATTORNEY TO CONSIST OF A RECOMMENDATION FOR DISMISSAL BY THE COUNTY MAYOR WITH THE CONCURRENCE OF A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS. SPONSORED BY CHAIRMAN TERRY ROLAND.

WHEREAS, The state law that authorizes the establishment of a charter form of county government requires the charter document retain the rights, powers, duties, obligations or functions of any officer, agency or office of the county in order for them to be continued in the charter form of county government; assign administrative and executive functions to the officers of county government; and provide for the titles, qualifications, compensation, method of selection, tenure, removal and replacement of the administrative and executive officers of county government; and

WHEREAS, The Shelby County Board of Commissioners has proposed the amendments to the Shelby County Charter contained herein and same should be published and submitted to the voters of Shelby County in accordance with the state election laws during the next countywide election; and

WHEREAS, The Shelby County Charter states that the “county attorney shall act as chief counsel to the Shelby County government, and he [or she] shall act as legal advisor to the **county mayor, the county commission**, and to all departments ... and officials of the Shelby County government and shall perform such other duties as may be required.” Section 3.08 (A) (2) (Emphasis added); and

WHEREAS, The Shelby County Charter currently provides that the hiring appointment process for the County Attorney includes the approval of both the County Mayor and County Commission by resolution but the dismissal process of the County Attorney only requires the County Mayor's approval with no mandated input from the County Commission; and

WHEREAS, The Shelby County Board of Commissioners desires to have the hiring and dismissal process for the County Attorney be one in the same so as to alleviate any concern of the County Commission about the independence of the County Attorney from the Administration, in particular, on those occasions when the opinions of the County Commission and Administration may present a conflict; and

WHEREAS, State law requires the County Attorney to prepare a summary not to exceed 200 words in length when the full statement of the proposed amendments exceed three hundred 300 words in length; and

WHEREAS, The full statement of the proposed amendments do not exceed three 300 words in length and, therefore, should be published and submitted to the voters in its entirety.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, That pursuant to Article III, Section 3.08 (A) (1) of the Shelby County Charter, the following proposed amendment to the Shelby County Charter shall be submitted to the qualified voters of Shelby County at the next countywide election allowed by law and the Shelby County Election Commission, in accordance with the state election laws, is hereby directed to publish the proposed amendment which read as follows:

PROPOSED AMENDMENT:

Shall the Shelby County Charter be amended to require both the county mayor and county commission's approval to dismiss the county attorney from office?

Yes _____ No _____

Section 3.08 Special offices of Shelby County Government.

A. Legal department - County attorney, selection, qualifications, authority, duties and powers.

- (1) There is hereby created the legal department of the Shelby County government. The county attorney shall be appointed by the county mayor with the concurrence of a resolution of the board of county commissioners. The county attorney shall, at the time of that appointment, be a citizen of the United States, have had no less than five years experience in the practice of law, and shall be licensed and qualified to practice law in all courts of Shelby County. The county attorney shall be subject to dismissal by the county mayor **with the concurrence of a resolution of the board of commissioners** without cause. The county attorney shall devote full time to the performance of his or her duties.

BE IT FURTHER ORDAINED, That upon this Ordinance becoming effective, the Clerk of the Shelby County Board of Commissioners shall immediately deliver a certified copy of this Ordinance to the Shelby County Election Commission in accordance with Article V, Section 5.05(B) of the Shelby County Charter.

BE IT FURTHER ORDAINED, That the proposed Charter amendment shall be deemed ratified and adopted if approved by a majority of those voting in the referendum election.

BE IT FURTHER ORDAINED, That for the purposes set forth in this Ordinance, the proposed amendment to the Shelby County Charter shall take effect on December 1, 2016.

BE IT FURTHER ORDAINED, That in accordance with state law, the Shelby County Election Commission shall certify the returns of the referendum election to the Shelby County Clerk and the Secretary of State together with a copy of the proposed Charter amendment previously filed with the Shelby County Election Commission by the Shelby County Board of Commissioners.

BE IT FURTHER ORDAINED, That upon receipt of the proclamation from the Secretary of State showing the results of such referendum election on the adoption or rejection of the proposed Charter amendment, the Shelby County Election Commission shall (1) attach one copy of the proclamation to the copy of the proposed Charter amendment theretofore certified to the Secretary of State and (2) deliver one copy of the proclamation to the Shelby County Clerk who shall attach the same to the copy of the referendum returns and proposed Charter amendment theretofore certified to, and deposited with, the Shelby County Clerk; the Shelby County Clerk subsequently delivering the proclamation and all attachments thereto to the Clerk of the Shelby County Board of Commissioners who shall make it a part of the minutes.

BE IT FURTHER ORDAINED, That all laws constituting the present Shelby County Charter that are not in conflict with the Charter amendments proposed herein be and the same are hereby continued in full force and effect, and all laws in conflict therewith be and the same are hereby repealed.

BE IT FURTHER ORDAINED, That if any clause, section, paragraph, sentence or part of this Ordinance shall be held or declared to be unconstitutional and void, it shall not affect the remaining parts of this Ordinance, it being hereby declared to be the legislative intent of the Shelby County Board of Commissioners to have passed the remainder of this Ordinance notwithstanding the part so held unconstitutional and void, if any.

BE IT FURTHER ORDAINED, That this Ordinance shall take effect upon adoption pursuant to Article V, Section 5.05(B) of the Charter of Shelby County.

NOTE: CERTIFICATION REFERRED TO HEREIN
FILED WITH RECORD IN OFFICE OF
CLERK OF COUNTY COMMISSION

Chairman

County Mayor

Date: _____

ATTEST:

Clerk of County Commission

FIRST READING: _____

SECOND READING: _____

ADOPTED

THIRD READING: _____